

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALLA KISELEVA,

Plaintiff,

-against-

MARK GREENSPAN, ADAM LITMAN,
BEAUTYFIX ENTERPRISES LLC d/b/a :
BEAUTYFIX MEDSPA, BEAUTYFIX MEDICAL
PLLC d/b/a BEAUTYFIX MEDICAL SPA,
BEAUTYFIX HOLDINGS LLC, and BEAUTY FX
SPA INC.;

Defendants.

23-cv-9496 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS on March 19, 2024, the Undersigned ordered defendants to show cause why the Court should consider their untimely motion to dismiss, Order, Dkt. 29;

WHEREAS on March 22, 2024, Defendants responded to the March 19 Order and stated their belief that their deadline to move against or answer the Complaint had been extended with Plaintiff's deadline to move for default, Response, Dkt. 31;

WHEREAS to support their mistaken belief, they assert that the Court's previous orders said that "all motions" [plural] were due by February 16, 2024, a deadline then extended to May 16, 2024, *id.* ¶¶ 6, 10 (purporting to quote from Orders, Dkts. 21, 23);

WHEREAS Defendants misquote the Court's orders, which never refer to "all motions" [plural] and instead reference only Plaintiff's deadline to move by way of an order to show cause why default judgment should not be entered, *see* Order, Dkt. 21 ("Plaintiff must move for an order to show cause why default judgment should not be entered against all Defendants, in accordance with this Court's Individual Practices, by no later than Friday, February 16, 2024.");

Dkt. 23 (“The deadline for Plaintiff to move for default, in accordance with this Court’s Individual Practices, is extended from Friday, February 16, 2024, to Thursday, May 16, 2024.”); and

WHEREAS there is a “strong preference for resolving disputes on the merits,” *Wildflower + Co. v. Mood Apparel, Ltd.*, 338 F.R.D. 192, 195 (S.D.N.Y. 2021);

IT IS HEREBY ORDERED that the Court will consider the Defendants’ untimely motion to dismiss, as there appears to be neither bad faith on Defendants’ part nor prejudice to Plaintiff. Defendants are directed to read the Court’s orders more carefully, to comply with all Federal Rules, Local Rules, and the Undersigned’s Individual Practices, and not to misquote the Court’s orders to justify failure to comply with time limits established by the Federal Rules.

IT IS FURTHER ORDERED that Plaintiff’s deadline to oppose the motion to dismiss or to amend the Complaint is extended to **Friday, April 5, 2024**. If Plaintiff elects to respond to the motion to dismiss, then she will not be able to amend the complaint again, unless she requests leave to amend in the event the motion is granted and the Court grants such leave.

SO ORDERED.

Date: **March 25, 2024**
New York, New York



VALERIE CAPRONI
United States District Judge